

**STATE OF MICHIGAN**  
**IN THE THIRD CIRCUIT COURT OF MICHIGAN**

**MARVIN DABISH,**

**Plaintiff,**

**-v-**

**NABIL SHAMOO, Individual;  
DANNY DENHA, Individual;  
EDDIE DENHA, Individual;  
ADEL DENHA, Individual;  
BEER WAGON LIQUOR, INC,  
a Michigan Corporation;**

**Defendants,**

**-And-**

**GEMINI INVESTMENT GROUP, LLC;  
And ZAKARIA ALI, Individual;**

**Intervening Defendants.**

**Case No. 14-015419-PD**  
**Hon. Daniel P. Ryan** 14-015419-PD

FILED IN MY OFFICE  
WAYNE COUNTY CLERK

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CATHY M. GARRETT

/s/ Michelle Howard

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**OPINION**

**I. Introduction**

This action is before the Court on two motions: (1) a motion for summary disposition filed by Plaintiff, Marvin Dabish, against Intervening Defendants, Gemini Investment Group, LLC, and Zakaria Ali (collectively referred to as “Intervening Defendants”), pursuant to MCR 2.116(C)(8), (9), and (10), and (2) a counter motion for summary disposition brought by Defendants and Intervening Defendants under MCR 2.116(I)(1) and (2). For the reasons more fully explained below, the Court will deny Plaintiff’s motion, and grant Defendants and Intervening Defendants’ counter motion.

## **II. Facts and Procedural History**

Plaintiff is the ostensible owner of Shop-Mor Convenience Store Financials #1, LLC, a retail convenience store located in Hamtramck. In 2012, Plaintiff apparently invested over \$100,000 to remodel Shop-Mor. Defendant, Nabil Shamoo, was employed as the manager of Shop-Mor during the remodeling period. Plaintiff alleges that between December 2012, and March 2013, Defendant, Eddie Denha, the father of Defendant, Danny Denha, the previous owner of Shop-Mor, entered the newly remodeled store while Shamoo was working, and unlawfully took possession and control of the business, changing the locks, and the password to the security system. According to Plaintiff, in January 2013, a check issued by the State of Michigan Lottery in the amount of \$5,001.95, made payable to him, and mailed to him at the Shop-Mor location, was stolen, his signature was forged, the check was cashed, and was deposited into the business checking account managed by Danny Denha. In addition, Danny Denha and Eddie Denha purportedly transferred all of the business consumer credit card transactions, A.T.M. credit transactions, cash payments, and check deposits into the same business checking account.

On December 3, 2014, Plaintiff filed suit against Defendants, Nabil Shamoo, Danny Denha, Eddie Denha, Adel Denha, and Beer Wagon Liquor, Inc, alleging:(1) interference with possessory interest (Count I); (2) conversion (Count II); (3) unjust enrichment (Count III); and (4) claim and delivery (Count IV).

On December 17, 2014, Judge Daphne Means Curtis entered an order granting Plaintiff's motion for temporary restraining order ("TRO") and emergency motion for

possession of property pending final judgment. Intervening Defendants then filed an emergency motion to dissolve the TRO. Judge Leslie Kim Smith entered an order on December 23, 2014, granting the motion. Following a hearing held on December 29, 2014, Judge Kathleen Macdonald, acting for Judge Curtis, entered an order continuing the TRO.

### **III. Analysis**

Underneath the “Wherefore” clause in the Intervening Defendants’ emergency motion to dissolve the TRO, there are signature lines containing the signatures of the Intervening Defendants. Beneath the signatures, is an area in which an alleged notary notarized the motion.

Plaintiff now challenges the authority of the notary, arguing that the notary “is not an officer authorized to administer oaths and receive sworn testimony.” (Plaintiff’s Brief in Support of Motion for Summary Disposition, p 2). In support, Plaintiff relies on a document purporting to show that Plaintiff conducted a notary search with the office of the Michigan Department of State, which revealed that the notary is not listed in its notary database. Plaintiff also contends that the Intervening Defendants and their attorney signed and filed a false motion in violation of MCR 2.114, and caused Judge Smith to improperly enter the order dissolving the TRO. It is Plaintiff’s position that the motion is null and void as a matter of law, and that the Intervening Defendants committed fraud by filing the motion.

The court rule cited by Plaintiff applies to motions. MCR 2.114(A). It provides in pertinent part that “[e]xcept when otherwise specifically provided by rule or statute, a

document need not be verified or accompanied by an affidavit.” MCR 2.114(B)(1). Here, Plaintiff has not referenced any such rule or statute, nor is the Court aware of any, that would require a motion to dissolve a TRO to be verified. Also, the attorney for Intervening Defendants signed the motion, which constitutes a certification by the attorney that:

(1) he ... read the document,

(2) to the best of his ... knowledge, information, and belief ... the document [was] well grounded in fact and [was] warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(3) the document [was] not interposed for any improper purpose.

MCR 2.114(D).

Finally, a hearing was held less than a week after the TRO was dissolved, at which time Plaintiff was present, and had an opportunity to present the issues he now raises. In any event, Plaintiff has not demonstrated that he is entitled to the relief which he currently seeks, notably dismissal of the Intervening Defendants from the lawsuit. Plaintiff's present motion is therefore denied.<sup>1</sup>

Defendants and Intervening Defendants' motion for summary disposition is granted since Plaintiff has not pled a cognizable tort or contract claim, nor did Plaintiff respond to the motion under MCR 2.116(G)(5), or appear at the hearing, which he scheduled.

/s/ Daniel P. Ryan  
Circuit Judge

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In light of this result, Plaintiff's request for sanctions is denied.